

Senate File 505

S-3166

1 Amend Senate File 505 as follows:

2 1. Page 119, after line 25 by inserting:

3 <DIVISION

4 DRUG TESTING — FAMILY INVESTMENT PROGRAM

5 Sec. \_\_\_\_ . NEW SECTION. 239B.2D Drug testing for  
6 applicants.

7 1. For the purposes of this section, unless the  
8 context otherwise requires:

9 a. *"Confirmed positive test result"* means the  
10 results of a urine, oral fluid, or blood test in  
11 which the level of controlled substances or their  
12 metabolites in the sample analyzed meets or exceeds  
13 nationally accepted standards for determining  
14 detectable levels of controlled substances as adopted  
15 by the federal substance abuse and mental health  
16 services administration. If nationally accepted  
17 standards for oral fluid tests have not been adopted  
18 by the federal substance abuse and mental health  
19 services administration, the standards for determining  
20 detectable levels of controlled substances for purposes  
21 of determining a confirmed positive test result shall  
22 be the same standard that has been established by the  
23 federal food and drug administration for the measuring  
24 instrument used to perform the oral fluid test.

25 b. *"Licensed substance abuse treatment program"*  
26 means an inpatient or outpatient substance abuse  
27 treatment program licensed by the department of public  
28 health under chapter 125.

29 c. *"Sample"* means a sample from the human body  
30 capable of revealing the presence of controlled  
31 substances, or their metabolites, which shall include  
32 only urine, saliva, or blood.

33 2. a. The drug testing requirements of this  
34 section apply to the following applicants for and  
35 recipients of assistance under this chapter:

36 (1) Each adult parent, guardian, or specified  
37 relative who is included in the applicant family,  
38 including both parents of a two-parent family, or  
39 an individual who may be exempt from work activity  
40 requirements due to the age of the youngest child or  
41 who may be exempt from work activity requirements under  
42 the PROMISE JOBS program.

43 (2) A minor parent who is not required to live  
44 with a parent, guardian, or other adult caretaker in  
45 accordance with this chapter.

46 (3) A recipient of assistance who provided a  
47 written acknowledgment of the drug testing requirements  
48 of this section at the time of application for  
49 assistance and for whom there is reasonable suspicion  
50 that the recipient uses or is under the influence of a

1 controlled substance, as determined by the department,  
2 shall be subject to random drug testing.

3 *b.* Dependent children under the age of eighteen  
4 years are exempt from the drug testing requirements of  
5 this section.

6 *c.* The department shall require a drug test that  
7 is similar to a drug test as a condition of employment  
8 under section 730.5 to screen the persons subject to  
9 this section for the presence of controlled substances.

10 *d.* If a person has a confirmed positive test  
11 result, the person shall be responsible for the cost  
12 of the person's drug test. If a person does not have  
13 a confirmed positive test result, the state shall be  
14 responsible for the cost of the person's drug test.

15 3. *a.* A person who is subject to this section is  
16 ineligible to receive assistance under this chapter if  
17 the person does not participate in the required drug  
18 testing.

19 *b.* A person who is subject to this section is  
20 ineligible to receive assistance under this chapter if  
21 the person has a confirmed positive test result for the  
22 presence of either of the following:

23 (1) A substance listed in schedule I under section  
24 124.204.

25 (2) A substance listed in schedule II, III, or  
26 IV under chapter 124 that was not prescribed for the  
27 person.

28 *c.* The period of ineligibility for an applicant  
29 or recipient who is ineligible for assistance under  
30 paragraph "b" is one year after the date of the  
31 confirmed positive test result.

32 4. The department shall do all of the following in  
33 implementing this section:

34 *a.* (1) Provide notice of drug testing to each  
35 person who is subject to this section at the time of  
36 application. The notice must advise the person that  
37 drug testing will be conducted as a condition for  
38 receiving assistance under this chapter and that the  
39 person must bear the cost of testing. The applicant  
40 shall be advised that the required drug testing may be  
41 avoided if the applicant does not complete or withdraws  
42 the application for assistance.

43 (2) Advise each person to be tested, before the  
44 test is conducted, that the person may, but is not  
45 required to, inform the agent administering the test  
46 of any prescription or over-the-counter medication the  
47 person is taking.

48 (3) Require each person to be tested to sign a  
49 written acknowledgment that the person has received and  
50 understood the notice and advice provided under this

1 paragraph "a".

2 b. Assure each person being tested a reasonable  
3 degree of dignity while producing and submitting  
4 a sample for drug testing, consistent with the  
5 department's need to ensure the reliability of the  
6 sample.

7 c. Specify circumstances under which a person with  
8 a confirmed positive test result has the right to take  
9 one or more additional tests.

10 d. Inform a person who has a confirmed positive  
11 test result and is deemed ineligible for assistance  
12 that the person may not reapply for assistance until  
13 one year after the date of the confirmed positive  
14 test result unless the person meets the requirements  
15 of paragraph "f". If the person has a subsequent  
16 confirmed positive test result, the person shall be  
17 ineligible to receive assistance for three years after  
18 the date of the subsequent result unless the person  
19 meets the requirements of paragraph "f".

20 e. Provide any person with a confirmed positive  
21 test result with a list of licensed substance abuse  
22 treatment programs available in the area in which the  
23 person resides. Neither the department nor the state  
24 is responsible for providing or paying for substance  
25 abuse treatment as part of the drug testing conducted  
26 under this section.

27 f. A person with a confirmed positive test  
28 result who is denied assistance under this chapter  
29 may reapply for assistance after six months if the  
30 person can document the successful completion of a  
31 licensed substance abuse treatment program. A person  
32 who has met the requirements of this paragraph and  
33 reapplies for assistance must also pass the initial  
34 drug test required under subsection 2. Any drug test  
35 conducted while the person is undergoing substance  
36 abuse treatment must meet the requirements for a drug  
37 test under subsection 2. The cost of any drug testing  
38 or substance abuse treatment provided under this  
39 subsection shall be the responsibility of the person  
40 being tested or receiving treatment. A person with  
41 a confirmed positive test result from the drug test  
42 required under subsection 2 may reapply for assistance  
43 under this paragraph only once.

44 5. If an applicant or recipient parent is deemed  
45 ineligible for assistance as a result of having  
46 a confirmed positive test result from a drug test  
47 conducted under this section, all of the following  
48 apply:

49 a. The eligibility of the applicant's or  
50 recipient's dependent child for assistance is not

1 affected.

2     *b.* An appropriate protective payee shall be  
3 designated to receive assistance on behalf of the  
4 dependent child. The parent may choose to designate  
5 an individual as the protective payee. The individual  
6 designated by the parent as the protective payee must  
7 be a specified relative or other immediate family  
8 member unless such family member is not available or  
9 the family member declines the designation. In which  
10 case another individual, approved by the department,  
11 shall be designated as the protective payee. The  
12 individual must also undergo drug testing before being  
13 approved to be the protective payee. If the designated  
14 individual has a confirmed positive test result, the  
15 designated individual shall be ineligible to be the  
16 protective payee.

17     6. The department shall adopt rules to implement  
18 this section.>

19     2. By renumbering as necessary.

---

BILL ANDERSON

---

JERRY BEHN

---

RICK BERTRAND

---

MICHAEL BREITBACH

---

JAKE CHAPMAN

---

MARK CHELGREN

---

MARK COSTELLO

---

BILL DIX

---

RANDY FEENSTRA

---

JULIAN GARRETT

---

DENNIS GUTH

---

DAVID JOHNSON

---

TIM L. KAPUCIAN

---

KEN ROZENBOOM

---

CHARLES SCHNEIDER

---

JASON SCHULTZ

---

MARK SEGBART

---

TOM SHIPLEY

---

AMY SINCLAIR

---

ROBY SMITH

---

JACK WHITVER

---

BRAD ZAUN

---

DAN ZUMBACH